



SEP 17 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

James S. Hsue, Esq.
Skjerven Morrill MacPherson, LLP
Three Embarcadero Center, 28th Floor
San Francisco, CA 94111

In re Application of
Thomas W. Hagler
Application No.: 09/869,371
PCT No.: PCT/US99/14446
Int. Filing Date: 25 June 1999
Priority Date: 26 June 1998
Attorney's Docket No.: M-10489-2P US
For: Method and Apparatus for Spectrum
Analysis and Encoder

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 27 June 2001.

BACKGROUND

On 25 June 1999, this international application was filed, claiming an earliest priority date of 26 June 1998.

No Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 26 February 2000. This international application became abandoned with respect to the United States at midnight on 26 February 2000 for failure pay the basic national fee.

On 27 June 2001, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee. No executed declaration or oath was provided at that time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

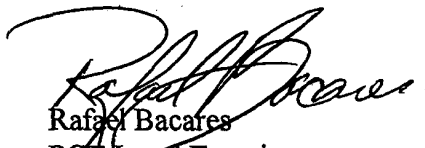
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905(Notification of missing requirements) to inform applicant that an executed Declaration or Oath is missing.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459